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U.S. House of Representatives
Committee on Resources
Washington, DC 20515

May 12, 2004

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Honorable Craig Manson
Assistant Secretary for Fish and Wildlife and Parks
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Assistant Secretary Manson:

At the April 28, 2004, hearing on H.R. 2933, the Critical Habitat Reform Act of 2003, you stated, "I have also issued an endangered species guidance letter on critical habitat to the Fish and Wildlife Service outlining several important points concerning designation of critical habitat. Later this week this draft critical habitat guidance will be finalized and the Service will begin applying it."

Two weeks have passed since the hearing, and the Department still has not issued this guidance. We are writing to ask you to issue this guidance.

We are not alone in our request. Two reports issued by the General Accounting Office also called on the Fish and Wildlife Service to develop this guidance. The August 2003 report entitled *Fish and Wildlife Service Uses Best Available Science to Make Listing Decisions, but Additional Guidance Needed for Critical Habitat Designations* said, "... we recommend that the Service - - through guidance, regulations, or other policy tools - - provide clear strategic direction for the critical habitat program in order to provide the greatest conservation benefit to threatened and endangered species in the most cost-effective manner."

The draft policy you released fails to address the hundreds of species that do not have critical habitat or the court orders that you contend are negatively impacting the agency. It is our understanding that public comment was not taken on the proposed guidance.

Another issue raised at the April 28, 2004, hearing was the Fish and Wildlife Service's failure to promulgate new regulations defining "destruction or adverse modification of critical habitat." The former definition was struck down by a court order in 2001, and the Administration has yet to develop a new one.

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Without critical habitat guidance or a working definition of destruction or adverse modification of critical habitat the Fish and Wildlife Service cannot adequately implement the Endangered Species Act. We support the immediate issuance of guidance and new regulations, as the GAO and the courts have requested for years.

We look forward to hearing from you on these issues.

Sincerely,



Nick J. Rahall, II
Ranking Democratic Member
Committee on Resources



Jay Inslee
Ranking Democratic Member
Subcommittee on Forests and
Forest Health